

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

KIMBLE MCNAIR,

Petitioner,

vs.

BRIAN WILLIAMS, SR.

Respondents.

Case No. 2:06-CV-01277-RCJ-(PAL)

**ORDER**

Petitioner has submitted a Declaration (#6) with his state-court decisions attached. Pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court has reviewed the Petition for a Writ of Habeas Corpus (#4). It will dismiss one ground, and it will serve the Petition (#4) upon Respondents for a response.

In Ground 1, Petitioner claims that the Eighth Judicial District Court violated his rights guaranteed by the First, Fifth, Sixth, and Fourteenth Amendments by transforming his “First Amendment Writ,” marked as “Petitioner—In Pro Se,” into a “Pro Per” “post-conviction writ of habeas corpus,” and then by denying the petition as time-barred. “[A] petition alleging errors in the state post-conviction review process is not addressable through habeas corpus proceedings.” Franzen v. Brinkman, 877 F.2d 26, 26 (9th Cir. 1989); see also Gerlaugh v. Stewart, 129 F.3d 1027, 1045 (9th Cir. 1997). Ground 1 because, on its face, does not entitle Petitioner to relief.

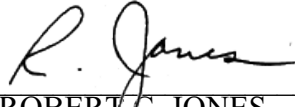
IT IS THEREFORE ORDERED that Ground 1 of the Petition for a Writ of Habeas Corpus (#4) is **DISMISSED**.

1 IT IS FURTHER ORDERED that the Clerk shall serve the Respondents a copy of  
2 the Petition (#4) and a copy of this Order by certified mail upon the Office of the Attorney General,  
3 Criminal Division, 100 North Carson St., Carson City, NV 89701-4717. In addition, the Clerk shall  
4 return to Petitioner a copy of the Petition (#4).

5 IT IS FURTHER ORDERED that Respondents shall have forty-five (45) days from  
6 the date on which the Petition was served to answer or otherwise respond to the Petition (#4). If  
7 Respondents file and serve an answer, then they shall comply with Rule 5 of the Rules Governing  
8 Section 2254 Cases in the United States District Courts, and then Petitioner shall have forty-five  
9 (45) days from the date on which the answer is served to file a reply.

10 IT IS FURTHER ORDERED that henceforth, Petitioner shall serve upon  
11 Respondents or, if appearance has been entered by counsel, upon the attorney(s), a copy of every  
12 pleading, motion or other document submitted for consideration by the court. Petitioner shall  
13 include with the original paper submitted for filing a certificate stating the date that a true and  
14 correct copy of the document was mailed to the Respondents or counsel for the Respondents. The  
15 Court may disregard any paper received by a district judge or magistrate judge that has not been  
16 filed with the Clerk, and any paper received by a district judge, magistrate judge, or the Clerk that  
17 fails to include a certificate of service.

18 DATED this 9th day of May, 2007.

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21 ROBERT C. JONES  
22 United States District Judge  
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